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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/717,099	11/19/2003	Melissa Dee Aquino	7346C	7304
27752	7590	10/25/2005	EXAMINER	
THE PROCTER & GAMBLE COMPANY INTELLECTUAL PROPERTY DIVISION WINTON HILL TECHNICAL CENTER - BOX 161 6110 CENTER HILL AVENUE CINCINNATI, OH 45224			BUI, LUAN KIM	
			ART UNIT	PAPER NUMBER
			3728	

DATE MAILED: 10/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

C

Office Action Summary	Application No. 10/717,099	Applicant(s) AQUINO ET AL.	
	Examiner Luan K. Bui	Art Unit 3728	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 September 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 and 9-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7, 9-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-7, 9-13 and 15-18 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Caggiano (4,861,632) or Kannankeril (4,927,010) in view of the Trinh et al. (5,429,628; hereinafter Trinh'628). Caggiano discloses a flexible container for dry food-stuffs having an opening for receiving the contents comprising a bag having liquid impervious walls (3) with inner and outer surfaces, an absorbent material (4) disposed on the inner surface of the container may be impregnated with a desiccant such as calcium chloride, silica gel or any other suitable desiccant material (column 4, lines 45-50) which is considered equivalent to an odor-neutralizing composition such as silica as claimed and a liquid pervious liner (5, 6) positioned adjacent the absorbent material. Caggiano further discloses the peripheral edges of the bag are sealably attached together by any suitable means such as heat sealing or an adhesive. Kannankeril discloses a container having an opening for receiving the contents (C) comprising a bag (10) having liquid impervious walls (27, 28) with inner and outer surfaces, an absorbent material (35, 36) disposed on the inner surface of the container may be impregnated with a bacteriastatic agent such as a chlorine solution or common household chlorine bleach (column 3, lines 24-33) which is considered equivalent to an odor-neutralizing composition as claimed and a liquid pervious liner (33, 34, 40, 41) positioned adjacent the absorbent material. Kannankeril further discloses a closure means (45) comprises cooperatively interlocking elongate male and

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female plastic strips or other suitable closures such as adhesive flaps or other liquid impervious closures. Caggiano or Kannankeril also discloses the other claimed limitations except for the odor-neutralizing composition comprises a cyclodextrin and a chelant.

Trinh'628 shows an absorbent article having an odor control system comprising the combination of an effective amount of cyclodextrin with other odor controlling materials such as chelating agents/chelant, zeolite or antimicrobial compound and others (see abstract, column 16, lines 48-61 and claim 20).

It would have been obvious to one having ordinary skill in the art in view of Trinh'628 to modify the odor-neutralizing composition of Caggiano or Kannankeril so the odor-neutralizing composition comprises a cyclodextrin and a chelant for better controlling the odor.

As to claim 2, both Caggiano and Kannankeril disclose the absorbent material joined to the inner surface.

As to claims 3-4, Kannankeril discloses the closure means comprise a layer of adhesive.

As to claims 7 and 12, Caggiano discloses the odor-neutralizing comprises silica.

As to claims 9 and 18, with respect to the range of the composition, it would have been obvious to one having ordinary skill in the art in view of Caggiano or Kannankeril as modified to deposited upon the absorbent material in a range as specify in the claims because it is depended on the size of the container and a change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955).

As to claim 15, Caggiano or Kannankeril fails to disclose the absorbent material being discontinuously deposited upon the inner surface of the container in lieu of continuously deposited upon the inner surface of the container, it would have been obvious to one having

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ordinary skill in the art at the time the invention was made to modify the container of Caggiano or Kannankeril so the absorbent material being discontinuously deposited upon the inner surface of the container instead of continuously deposited upon the inner surface of the container to reduce the cost of manufacture.

As to claim 17, see claim 1 of Trinh'628.

3. Claim 14 is finally rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 1 above, and further in view The Official Notice and Siklosi et al. (6,759,006; hereinafter Siklosi'006). Caggiano discloses the container as above having all the limitations of the claims except for a closure flap being connected to at least one of the liquid impervious walls. Kannankeril discloses the container as above having all the limitations of the claims. Kannankeril further discloses other suitable closures such as adhesive flaps or other liquid impervious closures may be suitable (column 3, lines 15-16) except for a closure flap being connected to at least one of the liquid impervious walls. Official Notice is taken of the old and conventional practice of providing a bag having a closure flap for sealing an opening of the bag. Siklosi'006, is cited by way of example only, shows a bag having an opening with a closure flap (5) attached to an outer surface of the bag for closure the opening (Figure 6). It would have been obvious to one having ordinary skill in the art in view of Official Notice and Siklosi'006 to modify the container of Caggiano or Kannankeril so the container includes a closure flap is connected to at least one of the liquid impervious walls for better opening and closing the container.

Response to Arguments

Applicant's arguments filed on 9/19/2005 have been fully considered but they are not deemed to be persuasive.

In response to applicant's argument that "The Trinh reference is silent as to the use of the odor control combinations in a container adapted to receive trash", a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963). Also, Applicant is requested to review the decision on appeal of the related patent application serial no. 09/831,782 from the board of patent appeals and interferences because the decision was clearly indicated that it is obvious to combine the references as stated above even that claim 1 has been amended but the references are used to reject the claim are unchanged.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO**

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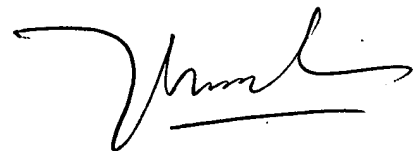
MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Luan K. Bui whose telephone number is (571) 272-4552. If in receiving this Office Action, it is apparent to Applicant that certain documents are missing from the record for example copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers should be directed to Ms. Errica Miller at (571) 272-4370.

Any inquiry of a general nature or relating to the status of this application should be directed to the Customer Service whose telephone number is (703) 306-5648. Facsimile correspondence for this application should be sent to (571) 273-8300 for Formal papers and After Final communications.

lkb
October 21, 2005



Luan K. Bui
Primary Examiner